

DEPARTMENT OF STATE REVENUE
LETTER OF FINDINGS NUMBER: 02-0558P
Use Tax
For Calendar Years 1999, 2000, and 2001

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ISSUE(S)

I. Tax Administration – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

STATEMENT OF FACTS

Taxpayer, a partnership that owns land, building and equipment of a recreation center, was audited for calendar years 1999, 2000, and 2001. The holdings are leased to a related company. Taxpayer is not required to register for sales tax. Taxpayer purchased items upon which no sales tax was collected nor paid.

Taxpayer requests abatement of the penalty because it was not aware that parts and repairs to its mechanical equipment were subject to sales or use tax.

I. Tax Administration – Penalty

DISCUSSION

Taxpayer purchased equipment exempt. Taxpayer protests the penalty assessed because it was not aware that parts and repairs of its mechanical equipment were subject to tax.

45 IAC 15-11-2(b) states, "Negligence, on behalf of the taxpayer is defined as the failure to use such reasonable care, caution, or diligence as would be expected of an ordinary reasonable taxpayer. Negligence would result from a taxpayer's carelessness, thoughtlessness, disregard or inattention to duties placed upon the taxpayer by the Indiana code or department regulations. Ignorance of the listed tax laws, rules and/or regulations is treated as negligence. Further, failure to read and follow instructions provided by the department is treated as negligence. Negligence shall be determined on a case by case basis according to the facts and circumstances of each taxpayer."

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Ignorance of Indiana tax laws is not reasonable cause. Taxpayer has not provided reasonable cause to allow the department to waive the penalty.

FINDING

Taxpayer's protest is denied.

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